

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

JANICE HOLMES

PLAINTIFF

VS.

CIVIL ACTION NO. 3:21-cv-678-KHJ-MTP

RIVERWALK CASINO Hotel, LLC,
MAGNOLIA HILL, LLC; POT OF GOLD,
LLC AND JOHN DOES 1-10

DEFENDANTS

NOTICE OF REMOVAL

TO: Honorable Jan H. Daigre
Warren County Circuit Clerk
P.O. Box 351
Vicksburg, Mississippi 39181

Martin R. Jelliffe, Esq.
Morgan & Morgan, PLLC
4450 Old Canton Road, Suite 200
Jackson, MS 39211

Ms. Janice Holmes
c/o Morgan & Morgan, PLLC
4450 Old Canton Road, Suite 200
Jackson, MS 39211

In accordance with 28 U.S.C. Sections 1332, 1441 and 1446, you are notified that Magnolia Hill, LLC has removed the action entitled “Janice Holmes v. Riverwalk Casino Hotel, LLC; Magnolia Hill, LLC; Pot of Gold, LLC; and John Does 1-10,” bearing Cause Number 21,0132-CI from the Circuit Court of Warren County, Mississippi to the United States District Court for the Southern District of Mississippi, Northern Division, and in support thereof states as follows:

BACKGROUND

1. Plaintiff Janice Holmes commenced this action on August 3, 2021 by filing a complaint in the Circuit Court of Warren County, Mississippi, assigned Cause Number 21,0132-

CI, and styled “Janice Holmes v. Riverwalk Casino Hotel, LLC; Magnolia Hill, LLC; Pot of Gold, LLC; and John Does 1-10.” A copy of the state court record is attached as Exhibit A and includes all process, pleadings and orders served on Magnolia Hill, LLC.

2. In the complaint, Plaintiff alleges she was injured at the Riverwalk Casino on or about November 26, 2019. Compl., ¶ 10. Specifically, Plaintiff claims that a broken door fell onto her as she was entering the premises, causing her to suffer injuries to her right shoulder. *Id.* Plaintiff alleges the incident and her resulting injuries were caused by negligence of the defendants. *Id.* at ¶ 13.

COMPLETE DIVERSITY

3. Plaintiff is, and was at the time this action was commenced, a citizen of Mississippi. *Id.* at ¶ 1.

4. Magnolia Hill, LLC is a limited liability company whose sole member, currently and at the time this action was commenced, is HCRH, LLC. The sole member of HCRH, LLC, currently and at the time this action was commenced, is Churchill Downs Incorporated, a corporation incorporated in Kentucky and having its principal place of business in Kentucky. Magnolia Hill, LLC is therefore a citizen of Kentucky for jurisdictional purposes. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077 (5th Cir. 2008).

5. The complaint lists Riverwalk Casino Hotel, LLC as a defendant in the style. Riverwalk Casino Hotel, LLC is not a legal entity. Rather, Magnolia Hill, LLC does business under the name Riverwalk Casino Hotel, LLC. A copy of a Certificate of Amendment on file with the Office of the Mississippi Secretary of State illustrating this is attached as Exhibit B.

6. The complaint lists Pot of Gold, LLC as a defendant in the style. Pot of Gold, LLC is a not a legal entity. Rather, Magnolia Hill, LLC initially did business under the name Pot of

Gold, LLC beginning June 16, 2005. A copy of an Application for Registration of Foreign Limited Liability Company on file with the Office of the Mississippi Secretary of State illustrating this is attached as Exhibit C. Effective January 30, 2012, Magnolia Hill, LLC began doing business under the name Riverwalk Casino Hotel, LLC, which continues to this day. Exh. B.

7. The complaint includes as defendants John Does 1-10. The citizenship of fictitious defendants is to be disregarded. 28 U.S.C. § 1441(b)(1).

AMOUNT IN CONTROVERSY

8. Plaintiff does not specify the amount of damages she is seeking within the complaint. The case was not initially removable because it could not be ascertained from the face of the complaint that the amount in controversy was satisfied.

9. Accordingly, Magnolia Hill, LLC served Requests for Admissions on Plaintiff aimed at determining whether Plaintiff seeks in excess of \$75,000, exclusive of interest and costs. Plaintiff served Responses to the Requests for Admissions illustrating that she seeks in excess of \$75,000, exclusive of interest and costs. A copy of the responses is attached as Exhibit D. The amount in controversy requirement is satisfied.

PROCEDURAL REQUIREMENTS ARE SATISFIED

10. This Notice is timely under 28 U.S.C. Section 1446(b)(3). Magnolia Hill, LLC is removing this case within 30 days after receipt of Plaintiff's Responses to Requests for Admissions from which it was first ascertained that the case is removable.

11. The United States District Court for the Southern District of Mississippi, Northern Division, is the federal judicial district embracing the Circuit Court of Warren County, Mississippi, making venue proper under 28 U.S.C. 1441(a).

12. A copy of this Notice has been filed with the Circuit Clerk of Warren County, Mississippi and has been provided to all parties pursuant to 28 U.S.C. Section 1446(d).

This, the 21st day of October, 2021.

Respectfully submitted,

MAGNOLIA HILL, LLC

BY: /s/ Jason H. Strong
OF COUNSEL

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CERTIFICATE OF SERVICE

I, Jason H. Strong, attorney for Magnolia Hill, LLC, hereby certify that I have this day filed the original of the above and foregoing Notice of Removal, and exhibits thereto, in the United States District Court for the Southern District of Mississippi, Northern Division, and that upon the filing of the original notice and exhibits thereto, I have served a true and correct copy of the said notice and exhibits on those persons shown on the first page of this document, all to effectuate the removal of a civil action entitled, “*Janice Holmes v. Riverwalk Casino Hotel, LLC; Magnolia Hill, LLC; Pot of Gold, LLC; and John Does 1-10*” bearing Civil Action No. 21,0132 from the Circuit Court of Warren County, Mississippi, to the United States District Court for the Southern District

of Mississippi, Northern Division, pursuant to the statutes and rules in such cases made and provided.

This, the 21st day of October, 2021.

/s/ Jason H. Strong
OF COUNSEL